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| PRE-APPEAL BRIEF REQUEST FOR REVIEW | | Docket Number (Optional) YOR920010555US1 | |
| I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>May 25, 2006</u> Signature <u><i>Anne Vachon Dougherty</i></u> Fax to (571) 273-8300 Typed or printed name <u>Anne Vachon Dougherty</u> | | Application Number 09/892,802 | Filed 06/27/2001 |
| | | First Named Inventor P.H. Westerink | |
| | | Art Unit 2176 | Examiner J. Blackwell |
| Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided. | | | |
| I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. 30,374 Registration number _____ <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____ | | <u><i>Anne Vachon Dougherty</i></u> Signature <u>Anne Vachon Dougherty</u> Typed or printed name (914) 962-5910 Telephone number May 25, 2006 Date | |
| NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below. | | | |
| <input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted. | | | |

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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The Examiner has rejected the Claims 1-15 under 35 USC 103(a) as unpatentable over the teachings of Takahashi. The present application teaches and claims apparatus, a program storage device, and a method for playback of multimedia presentations on a scene-based playback system, such as an MPEG-4 player or a Synchronized Multimedia Integration Language (a.k.a., "SMIL") player that requires scene description information to appropriately display a scene. Scene description information, as detailed in the present specification, comprises elementary streams that describe where and when the audio-visual information is to be placed in a scene. As detailed therein, the "MPEG-4 Scene Description stream (SD stream) is therefore comprised of a series of commands, such as to replace the entire scene, or to insert or delete nodes." In order to display the content, it may be necessary for the player to make preparations, such as opening a data channel or setting up buffers, or actions, such as replacing an entire scene. When the received stream does not include the necessary scene description information, as determined by the claimed system and method, scene description information is automatically and dynamically generated by the player for the scenes of the stream, thereby allowing playback. As taught and claimed, the generating of the scene description

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information by the player permits the player to play the streams. Accordingly, it is not simply synchronization information to allow synchronized display which is generated, but necessary playback commands without which the player cannot display the streams. Each of the independent claims expressly recites that the generated information is generated by the scene description based player and is "used to permit said player to play" the streams/presentation.

The Takahashi patent publication is directed to a video processing method and apparatus for recording video and audio data (see: e.g., steps S423 and S431 of Fig. 4) to include access point data and instructions as to whether or not to multiplex the video and audio data. By including the instruction or flag information about multiplexing, unnecessary processing (i.e., multiplexing and demultiplexing) can be avoided when it is not needed. Under the Takahashi teachings, either instruction information or a flag is provided to a player along with the "plural pieces of digital data" (see: paragraphs [0012] lines 2-4; [0013], lines 2-4;; [0016], lines 4-5; [0017], lines 2-4; [0018], lines 2-4; [0019], line 5; [0020], lines 4-5; [0021], lines 6-8; [0022], lines 7-8; [0023], lines 2-4; and [0024], lines 5-6. Takahashi teaches a recording

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system and recording method for providing data for display along with instruction/flag information. When recording data, for example as described in paragraph [0039], a determination is made as to whether a scene description exists and, if no scene description is inputted, "the CPU 11 sets the scene description flag at 0 (S414), and generates access information for random access (step S415)." Accordingly, the Takahashi recorder inserts synchronization information when there is no scene description information. Under Takahashi, any generating of signal processing information is being done at the Takahashi video recorder and not by the playback component. With regard to playback under Takahashi, as detailed in paragraphs [0043-0044], the playback component checks if the scene description flag is set, and if no scene description accompanies the stream, the playback component checks whether demultiplexing is necessary. If the video and audio data are not multiplexed, the "data are transmitted to the corresponding codecs together with information for synchronization". Accordingly, the Takahashi player uses the access/synchronization information inserted by the recorder.

Applicants respectfully assert that the Takahashi patent publication neither teaches nor suggests the

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invention as claimed. For all playback under Takahashi a player receives an incoming stream comprised of digital data and either an instruction or a flag or both. Takahashi neither teaches nor suggests that a player receives an incoming stream which does not include the additional information. Applicants further assert that Takahashi does not teach or suggest that a player generates a scene description stream. While the Takahashi video recording system may record synchronization information (i.e., the access point data) for a stream, Takahashi neither teaches nor suggests that the playback component generates any synchronization information or other access information, let alone scene description information as is expressly taught and claimed for the present invention.

Applicants point out that, as taught by the present Specification (see: e.g., page 4, "Playback in absence of MPEG-4 Systems Components"), without the scene description information, it is not possible for the players to display the received streams unless modifications are made to the players. It is not simply a question of optimizing display by synchronization of audio to visual, it is a question of being able to display the audio/visual data at all in the absence of a scene description stream. As is expressly recited in each of the claims, the player generates the

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needed scene description stream which "is used to permit said player to play" the audio/visual data (*emphasis added*). It is the scene-description based player, and more particularly the MPEG-4 player or the SMIL player, that requires the information and that generates the required information. All of the claims expressly recite a scene description based player, an MPEG-4 player, or an SMIL player, which is generating the scene description stream.

Applicants respectfully conclude that the invention as claimed is patentable over the teachings of the Takahashi patent publication. It is well established under U.S. Patent Law that, for a determination of obviousness, the prior art must teach or suggest all of the claim limitations. "All words in a claim must be considered in judging the patentability of that claim against the prior art" (*In re Wilson*, 424 F. 2d 1382, 1385, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)). If the cited references fail to teach each and every one of the claim limitations, a *prima facie* case of obviousness has not been established by the Examiner. Since the Takahashi publication does not teach or suggest a player generating scene description information, it cannot be concluded that the Takahashi publication obviates the invention as claimed.